



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**VIA FIRST CLASS MAIL**

**FEB -3 2014**

Benjamin S. Proto, Esq.  
2090 Cutspring Road  
Stratford, CT 06614

RE: MUR 6720

Dear Mr. Proto:

On February 13, 2013, the Federal Election Commission notified your client, Christopher C. Healy, of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"). On January 28, 2014, on the basis of the information in the complaint, and information provided by you on behalf of Mr. Healy, the Commission exercised its prosecutorial discretion and dismissed the allegation that Mr. Healy violated 2 U.S.C. § 441i(d)(ii). Accordingly, the Commission closed its file in this matter on January 28, 2014.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact Ruth Heilizer, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

General Counsel

BY: Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination  
& Legal Administration

Enclosure:  
Factual and Legal Analysis

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**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Christopher C. Healy

MUR 6720

Jerry Labriola, Jr.

Connecticut Republican State Central Committee

Gary Schaffrick as treasurer

**I. INTRODUCTION**

This matter was generated by a Complaint filed by Ronald Winter ("Winter") alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by Respondents Christopher C. Healy, Jerry Labriola, Jr., and Connecticut Republican State Central Committee and Gary Schaffrick as treasurer<sup>1</sup> (the "Committee"). After reviewing the record, the Commission exercises its prosecutorial discretion and dismisses the allegation that Respondent Healy violated 2 U.S.C. § 441i(d)(2), and finds no reason to believe that Respondents Labriola and the Committee violated 2 U.S.C. § 441i(b). The Commission also reminds the Committee to comply with the "disputed debt" reporting requirements set forth at 11 C.F.R. § 116.10(a).

**II. FACTUAL AND LEGAL ANALYSIS**

**A. Factual Background**

Winter asserts that the Committee's "leaders, past and present" may have violated the Act by allegedly establishing a "527 account used to solicit and accept funds from state sources" in order to pay "federal campaign debts." Compl. at 1. Specifically, Winter alleges that the Committee failed to pay him for unspecified work he performed for the Committee in connection with the

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<sup>1</sup> Schaffrick is presently the Committee's treasurer, but Labriola was its treasurer during the events described in the Complaint.

1 campaign of Joseph Visconti, a 2008 candidate in Connecticut's 1st congressional district.<sup>2</sup> *Id.* The  
2 Complaint attaches alleged e-mails between Healy, in February 2009 the Committee's then-  
3 Chairman, and an individual named Rob Simmons, wherein Simmons inquires whether he could  
4 make a contribution to the Committee to help pay Winter. *Id.*; Compl., Attach. Healy states,  
5 "[Ron] sent me a bill and I am also trying to put some dollars aside through my reelection account  
6 (527) . . . The [527] donations are unlimited and non-reportable. . . . Its [sic] all legit but I would  
7 rather do that than have it be on our federal report under in-kind for Visconti."<sup>3</sup> The Complaint  
8 includes a copy of a check in the amount of \$500 from Simmons payable to the Healy Fund. *Id.*  
9 Although the check was cashed by the Healy Fund, it bears no indication that it was intended for  
10 Winter.

11 Healy responds that Winter did not perform any services for Healy or the Healy Fund, nor  
12 did any contract or other agreement exist between Winter and himself or the Healy Fund. Healy  
13 Resp. at 1. Asserting that Winter appears to be seeking payment for services rendered to the  
14 Visconti Committee from "another source," Healy denies that either he or the Healy Fund were  
15 obligated to make any payments to Winter. *Id.* He further explains that the Healy Fund was a  
16 "short lived entity" with no employees or vendors, which only raised and spent about \$5,000. *Id.* at  
17 2. Additionally, Healy states that section 527 of the Internal Revenue Code prohibited the Healy  
18 Fund from paying the debts of the Visconti campaign or the Committee. *Id.* Healy does not  
19 specifically address the e-mails appended to the Complaint, including those apparently authored by

<sup>2</sup> Visconti for Congress reported a debt of \$10,224 owed to "Ron Winter D/B/A State Comm." for "campaign communications" on its 2013 October quarterly report. *See* <http://images.nictusa.com/pdf/183/13031132183/13031132183.pdf> at 8.

<sup>3</sup> The account at issue is variously referred to in the record as a "527 account," "527 organization," and "reelection account (527)." All of these names appear to refer to the "Chairman Chris Healy Fund" or "Healy Fund," an organization Healy established on May 12, 2009 under section 527 of the Internal Revenue Code. *See* Notice of 527 Status, (Form 8871), available at <http://forms.irs.gov/app/pod/basicSearch/search?execution=e1s1&pacid=29936>.

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1 him, in which he appears to contemplate paying Winter out of the Healy Fund for services rendered  
2 to the Committee on behalf of the Visconti campaign.

3 The Committee filed a Response on behalf of itself and Chairman Labriola, in which it  
4 “unequivocally denies” the allegation that it “used[d] soft money to pay a hard money expenditure.”  
5 Committee Resp. at 1. The Committee asserts that the Complaint was filed during civil litigation  
6 between Winter and the Committee over payment for consulting work Winter allegedly performed  
7 in 2008. *Id.* at 2. After the Complaint was filed, the parties settled their dispute, with the  
8 Committee agreeing to pay Winter \$3,500. *Id.* A copy of the settlement agreement, dated March  
9 11, 2013, is attached to the Response. The Committee also states that it paid Winter with federal  
10 funds,<sup>4</sup> and that it has no knowledge regarding Healy’s use of funds in his “527 account.” *Id.*  
11 Separately, Schaffrick and Labriola submitted sworn affidavits supporting the facts contained in the  
12 Response.

13 **B. Legal Analysis**

14 The central issue in this matter is whether the Committee used nonfederal funds to pay for a  
15 federal election activity. Under the Act and Commission regulations, state committees of a political  
16 party, like the Committee here, generally must pay for federal election activity with funds that are  
17 subject to the Act’s limitations, prohibitions, and reporting requirements. 2 U.S.C. § 441i(b).  
18 Federal election activity includes voter registration activity within 120 days before an election, and  
19 voter identification, get-out-the-vote, and generic campaign activity conducted in connection with  
20 an election in which a candidate for federal office appears on the ballot. 2 U.S.C. § 431(20)(A)(i)-

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<sup>4</sup> The Committee reported a disbursement of \$3,500 to Winter for “legal settlement.” See 2013 April monthly report, available at <http://images.nictusa.com/pdf/418/13961944418/13961944418.pdf> at 15.

1 (ii); 11 C.F.R. § 100.24(b). Thus, it appears that the alleged debt was for a federal election activity  
2 and that the Committee would have had to use federal funds to pay for it.

3 The available information suggests that the Committee, not the Healy Fund, compensated  
4 Winter, and that the Committee did so with federal funds. The Committee explains that it settled  
5 the alleged debt with Winter, and that Winter signed a release in exchange for a payment of \$3,500,  
6 which the Committee reported as being paid out of its federal account. *See* Committee Response at  
7 2; *see also* n. 4, *supra* (payment to Winter disclosed on Committee's April 2013 monthly report).  
8 In addition, it appears that the Healy Fund, which was a vehicle to raise and spend non-federal  
9 money donations in connection with Healy's campaign to be re-elected chairman of the Committee,  
10 made no payments to Winter. Therefore, the Commission finds no reason to believe that  
11 Respondents Labriola and the Committee violated 2 U.S.C. § 441i(b).

12 In addition, state committees of a political party, and officers and agents acting on its behalf,  
13 are generally prohibited from directing or soliciting donations to "527" entities. 2 U.S.C.  
14 § 441i(d)(2); 11 C.F.R. § 300.37. Therefore, Healy, as the Committee's chairman, was prohibited  
15 from directing or soliciting donations to the Healy Fund in order to pay the Committee's debt to  
16 Winter. In light of the low dollar amount at issue, however, and the indication that Winter was  
17 paid with federal funds, the Commission exercises its prosecutorial discretion and dismisses the  
18 § 441i(d)(2) allegation. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

19 Finally, the record reflects that the Committee owed a debt to Winter; therefore, a related  
20 issue concerns whether the Committee properly reported the debt. Under the Commission's  
21 regulations, "[u]ntil the dispute is resolved, the political committee shall disclose on the appropriate  
22 reports . . . the amount the creditor claims is owed." 11 C.F.R. § 116.10(a). The Committee likely  
23 was on notice of Winter's claim dating back to February 2009. However, in light of the settlement

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1 and the amount at issue, the Commission exercises its prosecutorial discretion pursuant to *Heckler*  
2 *v. Chaney*, 470 U.S. 821 (1985), dismisses the issue as to whether the Committee failed to properly  
3 report the disputed debt, and reminds the Committee of the “disputed debt” reporting requirements  
4 as set forth in 11 C.F.R. § 116.10(a).

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